

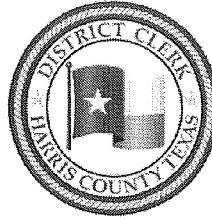
Harris County Docket Sheet

2015-07627

COURT: 215th

FILED DATE: 2/10/2015

CASE TYPE: Insurance



SHERRINGTON, BARBARA

Attorney: DALY, RICHARD D.

VS.

**ALLSTATE VEHICLE AND PROPERTY INSURANCE
COMPANY**

Attorney: HIGGINS, ROGER D.

Docket Sheet Entries

Date	Comment



HCDistrictclerk.com SHERRINGTON, BARBARA vs. ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY 3/20/2015
Cause: 201507627 CDI: 7 Court: 215

APPEALS

No Appeals found.

COST STATEMENTS

No Cost Statements found.

TRANSFERS

No Transfers found.

POST TRIAL WRITS

No Post Trial Writs found.

ABSTRACTS

No Abstracts found.

NOTICES

No Notices found.

SUMMARY

CASE DETAILS		COURT DETAILS	
File Date	2/10/2015	Court	215 th
Case (Cause) Location	Civil Intake 1st Floor	Address	201 CAROLINE (Floor: 13) HOUSTON, TX 77002 Phone: 7133686330
Case (Cause) Status	Active - Civil	Judge Name	ELAINE H PALMER
Case (Cause) Type	Insurance	Court Type	Civil
Next/Last Setting Date	5/4/2015		
Jury Fee Paid Date	3/16/2015		

ACTIVE PARTIES

Name	Type	Post	Attorney
SHERRINGTON, BARBARA	PLAINTIFF - CIVIL	Jdgmt	DALY, RICHARD D.
ALLSTATE VEHICLE AND PROPERTY INSURANCE DEFENDANT - CIVIL COMPANY			HIGGINS, ROGER D.
THROUG ITS REGISTERED AGENT, DALLAS, TX 75201			
ALLSTATE VEHICLE AND PROPERTY INSURANCE REGISTERED AGENT COMPANY BY SERVING ITS			

INACTIVE PARTIES

No inactive parties found.

JUDGMENT/EVENTS

Date	Description	Order Signed	Post Jdgm	Pgs /Page	Volume	Filing Attorney	Person Filing
3/16/2015	ANSWER			0		HIGGINS, ROGER D.	ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY
3/16/2015	JURY FEE PAID (TRCP 216)			0			
2/10/2015	ORIGINAL PETITION			0		DALY, RICHARD D.	SHERRINGTON, BARBARA

SETTINGS

Date	Court Post	Docket Type	Reason	Results	Comments	Requesting Party
5/04/2015 08:30 AM	215	Trial Coordinators Docket	COURT SCHEDULING ORDER			

SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION (CERTIFIED)	SERVICE RETURN/EXECUTED PETITION	ORIGINAL	ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY BY SERVING ITS	2/10/2015	2/11/2015	2/20/2015			73102313	CONST 1 JACK F. ABERCIA

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
64700001	Case Management Notice		03/20/2015	2
64646315	DEFENDANT'S ORIGINAL ANSWER AND JURY DEMAND		03/16/2015	2
64455784	Citation (Certified)		02/27/2015	4
64188633	Plaintiff's Original Petition		02/10/2015	19
64188635	Civil Case Information Sheet		02/10/2015	1

2/10/2015 4:35:09 PM

Chris Daniel - District Clerk Harris County
Envelope No. 4097713
By: Charlie Tezeno
Filed: 2/10/2015 4:35:09 PM

2015-07627 / Court: 215

CAUSE NO. _____

BARBARA SHERRINGTON § IN THE DISTRICT COURT OF
§
Plaintiff §
§
vs. § HARRIS COUNTY, TEXAS
§
ALLSTATE VEHICLE AND PROPERTY §
INSURANCE COMPANY §
§ JUDICIAL DISTRICT
Defendant §

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Barbara Sherrington ("Ms. Sherrington"), Plaintiff herein, files this Original Petition against Defendant Allstate Vehicle and Property Insurance Company ("Allstate") and, in support of her causes of action, would respectfully show the Court the following:

I.
THE PARTIES

1. Barbara Sherrington is a Texas resident who resides in Harris County, Texas.
2. Allstate is an insurance company doing business in the State of Texas which may be served through its registered agent for service of process in the State of Texas, CT Corporation System, via certified mail at 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136.

II.
DISCOVERY

3. This case is intended to be governed by Discovery Level 2.

III.
CLAIM FOR RELIEF

4. The damages sought are within the jurisdictional limits of this court. Plaintiff currently seeks monetary relief over \$100,000 but not more than \$200,000, including damages of

any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees. However, to the extent that Defendant refuses to cooperate in discovery, makes frivolous and unwarranted objections, files needless motions, quashes depositions and discovery requests without a reasonable basis, asserts unjustified or false affirmative defenses, makes unwarranted special exceptions, hires individuals they claim to be "experts" who give false opinions or testimony, produces witnesses who commit perjury, conducts excessive discovery, or otherwise needlessly delays litigation, the costs, expenses, interest, and attorney's fees will likely be over \$200,000 but not more than \$1,000,000.

**IV.
JURISDICTION AND VENUE**

5. This court has subject matter jurisdiction of this cause of action because it involves an amount in controversy in excess of the minimum jurisdictional limits of this Court. No diversity of citizenship exists in this matter.

6. Venue is proper in Harris County under Tex. Civ. Prac. & Rem. Code §15.002(a)(1) because all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County. In particular, the loss at issue occurred in Harris County.

**V.
FACTUAL BACKGROUND**

7. Ms. Sherrington is a named insured under a property insurance policy issued by Allstate.

8. On or about October 27, 2014 a storm hit the Cypress, Texas area, damaging Ms. Sherrington's house and other property. Ms. Sherrington subsequently filed a claim on her insurance policy.

9. Defendant improperly denied and/or underpaid the claim.

10. The adjuster assigned to the claim conducted a substandard investigation and inspection of the property, prepared a report that failed to include all of the damages that were observed during the inspection, and undervalued the damages observed during the inspection.

11. This unreasonable investigation led to the underpayment of Plaintiff's claim.

12. Moreover, Allstate performed an outcome-oriented investigation of Plaintiff's claim, which resulted in a biased, unfair and inequitable evaluation of Plaintiff's losses on the property.

VI.
CAUSES OF ACTION

13. Each of the foregoing paragraphs is incorporated by reference in the following:

A. Breach of Contract

14. Allstate had a contract of insurance with Plaintiff. Allstate breached the terms of that contract by wrongfully denying and/or underpaying the claim and Plaintiff was damaged thereby.

B. Prompt Payment of Claims Statute

15. The failure of Allstate to pay for the losses and/or to follow the statutory time guidelines for accepting or denying coverage constitutes a violation of Article 542.051 *et seq.* of the Texas Insurance Code.

16. Plaintiff, therefore, in addition to Plaintiff's claim for damages, is entitled to 18% interest and attorneys' fees as set forth in Article 542.060 of the Texas Insurance Code.

C. Bad Faith/DTPA

17. Defendant is required to comply with Chapter 541 of the Texas Insurance Code.

18. Defendant violated § 541.051 of the Texas Insurance Code by:

(1) making statements misrepresenting the terms and/or benefits of the policy.

19. Defendant violated § 541.060 by:

- (1) misrepresenting to Plaintiff a material fact or policy provision relating to coverage at issue;
- (2) failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer's liability had become reasonably clear;
- (3) failing to promptly provide to Plaintiff a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's denial of a claim or offer of a compromise settlement of a claim;
- (4) failing within a reasonable time to affirm or deny coverage of a claim to Plaintiff or submit a reservation of rights to Plaintiff; and
- (5) refusing to pay the claim without conducting a reasonable investigation with respect to the claim;

20. Defendant violated § 541.061 by:

- (1) making an untrue statement of material fact;
- (2) failing to state a material fact necessary to make other statements made not misleading considering the circumstances under which the statements were made;
- (3) making a statement in a manner that would mislead a reasonably prudent person to a false conclusion of a material fact;
- (4) making a material misstatement of law; and
- (5) failing to disclose a matter required by law to be disclosed.

21. At all material times hereto, Plaintiff was a consumer who purchased insurance products and services from Defendant.

22. Defendant has violated the Texas Deceptive Trade Practices Act in the following respects:

(1) Defendant represented that the agreement confers or involves rights, remedies, or obligations which it does not have, or involve, or which are prohibited by law;

(2) Allstate failed to disclose information concerning goods or services which was known at the time of the transaction when such failure to disclose such information was intended to induce the consumer into a transaction that the consumer would not have entered into had the information been disclosed;

(3) Allstate, by accepting insurance premiums but refusing without a reasonable basis to pay benefits due and owing, engaged in an unconscionable action or course of action as prohibited by the DTPA § 17.50(a)(1)(3) in that Allstate took advantage of Plaintiff's lack of knowledge, ability, experience, and capacity to a grossly unfair degree, that also resulted in a gross disparity between the consideration paid in the transaction and the value received, in violation of Chapter 541 of the Insurance Code.

23. Defendant knowingly committed the acts complained of. As such, Plaintiff is entitled to exemplary and/or treble damages pursuant to the DTPA and Texas Insurance Code § 541.152(a)-(b).

D. Attorneys' Fees

24. Plaintiff engaged the undersigned attorney to prosecute this lawsuit against Defendant and agreed to pay reasonable attorneys' fees and expenses through trial and any appeal.

25. Plaintiff is entitled to reasonable and necessary attorney's fees pursuant to TEX. CIV. PRAC. & REM. CODE §§ 38.001-38.003 because she is represented by an attorney,

presented the claim to Defendant, and Defendant did not tender the just amount owed before the expiration of the 30th day after the claim was presented.

26. Plaintiff further prays that she be awarded all reasonable attorneys' fees incurred in prosecuting her causes of action through trial and any appeal pursuant to Sections 541.152 542.060 of the Texas Insurance Code.

VII.
CONDITIONS PRECEDENT

27. All conditions precedent to Plaintiff's right to recover have been fully performed, or have been waived by Defendant.

VIII.
DISCOVERY REQUESTS

28. Pursuant to Rule 194, you are requested to disclose, within fifty (50) days after service of this request, the information or material described in Rule 194.2(a)-(l).

29. You are also requested to respond to the attached interrogatories, requests for production, and requests for admissions within fifty (50) days, in accordance with the instructions stated therein.

IX.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Barbara Sherrington prays that, upon final hearing of the case, she recover all damages from and against Defendant that may reasonably be established by a preponderance of the evidence, and that Ms. Sherrington be awarded attorneys' fees through trial and appeal, costs of court, pre-judgment interest, post-judgment interest, and such other and further relief, general or special, at law or in equity, to which Ms. Sherrington may show herself to be justly entitled.

Respectfully submitted,

DALY & BLACK, P.C.

By: /s/ Richard D. Daly

Richard D. Daly
TBA No. 00796429

rdaly@dalyblack.com

John Scott Black
TBA No. 24012292

jblack@dalyblack.com

Ana M. Ene
TBA No. 24076368

aene@dalyblack.com

Matthew Worrall

TBA No. 24070883

mworrall@dalyblack.com

2211 Norfolk St., Suite 800

Houston, Texas 77098

713.655.1405—Telephone

713.655.1587—Fax

ATTORNEYS FOR PLAINTIFF
BARBARA SHERRINGTON

CIVIL CASE INFORMATION SHEET

2/10/2015 4:35:09 PM

Chris Daniel - District Clerk
Harris County

Envelope No: 4097713

By: TEZENO, CHARLIE

Filed: 2/10/2015 4:35:09 PM

CAUSE NUMBER (FOR CLERK USE ONLY):

STYLED BARBARA SHERRINGTON VS. ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY

COURT (FOR CLERK USE ONLY):

2015-07627 / Court: 215

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:	Person or entity completing sheet is:
Name: Richard D. Daly	Email: rdaly@dalyblack.com	Plaintiff(s)/Petitioner(s): BARBARA SHERRINGTON	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other:
Address: 2211 Norfolk St, Ste 800	Telephone: 713.655.1405	Defendant(s)/Respondent(s): ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY	Additional Parties in Child Support Case: Custodial Parent: Non-Custodial Parent: Presumed Father:
City/State/Zip: Houston, TX 77098	Fax: 713.655.1587		[Attach additional page as necessary to list all parties]
Signature: /s/ Richard D. Daly	State Bar No: 00796429		

2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil			Family Law		
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)	
<input checked="" type="checkbox"/> Debt/Contract <input checked="" type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: <input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: 	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: <input type="checkbox"/> Other Injury or Damage: 	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: 	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <input type="checkbox"/> With Children <input type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocal UIFSA <input type="checkbox"/> Support Order	
		<input type="checkbox"/> Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____		<input type="checkbox"/> Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	Parent-Child Relationship <input type="checkbox"/> Adoption/Acknowledgment with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
<input type="checkbox"/> Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: 		<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property			
<input type="checkbox"/> Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax		<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____			
Probate & Mental Health <input type="checkbox"/> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____					

3. Indicate procedure or remedy, if applicable (may select more than 1):

<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
4. Indicate damages sought (do not select if it is a family law case): <input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input checked="" type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000		

CERTIFIED MAIL BY CONSTABLE

P4

CONFIRMED FILE DATE: 2/27/2015

CAUSE NO 201507627
TR# 7190 1037 6610 0000 6489 SBM# JU410935

RECEIPT NO	75 00	CO1

PLAINTIFF	SHERRINGTON, BARBARA	
VS		
DEFENDANT	ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY	

In The 215th
Judicial District Court
of Harris County, Texas
215TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)
THE STATE OF TEXAS
County of Harris

TO ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY BY SERVING ITS
REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900 DALLAS TX 752013136

*FILED
SHERIFF
District Clerk
FEB 27 2015
Harris County, Texas
By [Signature] [Signature]
Deputy*

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION REQUEST FOR DISCLOSURE REQUEST FOR PRODUCTION REQUEST FOR ADMISSIONS AND INTERROGATORIES

This instrument was filed on the 10th day of February, 2015, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10 00 a m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING

This citation was issued on 11th day of February, 2015, under my hand and seal of said Court

Issued at request of
DALY, RICHARD D
2211 NORFOLK ST SUITE 800
HOUSTON, TX 77098
Tel (713) 655-1405
Bar No 796429



CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline Houston, Texas 77002
(P O Box 4651, Houston, Texas 77210)

GENERATED BY TEZENO, CHARLIE CMA//10027132

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, and executed by mailing to Defendant certified mail, return receipt requested, restricted delivery, a true copy of this citation together with an attached copy of PLAINTIFF'S ORIGINAL PETITION REQUEST FOR DISCLOSURE REQUEST FOR PRODUCTION REQUEST FOR ADMISSIONS AND INTERROGATORIES to the following addressee at address

ADDRESS

ADDRESSEE

Service was executed in accordance with Rule 106(a)(2) TRCP, upon the Defendant as evidenced by the return receipt incorporated herein and attached hereto at _____

on _____ day of _____, _____, by U S Postal delivery to _____

This citation was not executed for the following reason _____

CHRIS DANIEL, District Clerk
HARRIS COUNTY, T E X A S

By _____ Deputy

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

N INT CITM P





**CONSTABLE ALAN ROSEN
HARRIS COUNTY CONSTABLE'S OFFICE
Precinct One**

www.pct1constable.net

OFFICER'S RETURN FOR CERTIFIED MAIL

Received this CITATION, case # 201507627 on the 12TH day of FEBRAURY 2015 at 1 23 P M

Executed at 1999 BRYAN STREET SUITE 900 DALLAS TX 752013136 by mailing to the within name

ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY BY SERVING ITS REG AGENT CT

CORPORATION SYSTEM and by delivering to CHRIS WELLS on the 20TH day of FEBRUARY 2015 BY

REGISTERED/CERTIFIED MAIL WITH DELIVERY RESTRICTED TO ADDRESSEE ONLY, a true copy of this

Citation together with a copy of PLAINTIFF'S ORIGINAL PETITION

FEE \$75 00

**ALAN ROSEN, CONSTABLE
PCT #1, HARRIS COUNTY TX**

DEPUTY

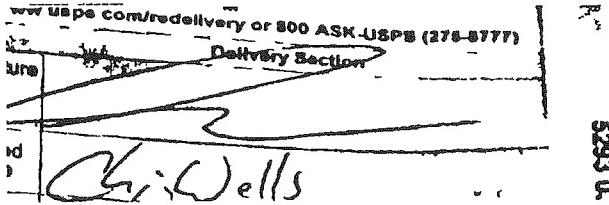


Date Produced 02/23/2015

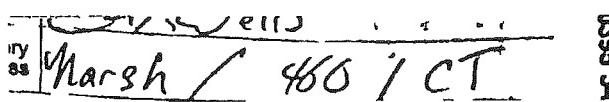
HARRIS COUNTY CONSTABLE PCT 1

The following is the delivery information for Certified Mail™ item number 7190 1037 6610 0000 6489 Our records indicate that this item was delivered on 02/20/2015 at 09 19 a m in DALLAS, TX 75201 The scanned image of the recipient information is provided below

Signature of Recipient



Address of Recipient



Thank you for selecting the Postal Service for your mailing needs If you require additional assistance, please contact your local post office or Postal Service representative

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service It is solely for customer use

Customer Reference Number 201507627

County Auditor's Form/9999A
Harris County, Texas (Rev 04/01)

Official Receipt

103 NO 141572

CHRIS DANIEL DISTRICT CLERK

Action Insurance

Case 201507627 7

Trans ID 208074458

Court 215

Style PLT SHERRINGTON BARBARA
DEF ALLSTATE VEHICLE AND PROPERTY INSURANCE

Fee	Description	Amount	Payment	Texas gov Mastercard	Date	
100	FILING NEW CASE	\$50.00	Amount Tendered		31376/1/2015	\$356.75
121	CITATION WITH 1 COPY	\$8.00	Payment Amount			\$356.75
175	DISTRICT COURT RECORDS ARCHIVE FEE	\$10.00	Amount Applied			\$356.75
176	DIGITAL REC PRESERVATION FEE	\$10.00	Change Amount			\$0.00
178	ELECTRONIC FILING FEE STATE	\$20.00	Received	Daly & Black PC	I0018842	
179	ELECTRONIC FILING FEE DCO	\$2.00	Of	2211 Norfolk St Suite 517		
195	SECURITY SERVICE FEE	\$5.00	Houston TX 77098			
198	DIST CLK RECORDS MGMT & PRES FEE	\$5.00	THREE HUNDRED FIFTY SIX AND 75/100 ***** Dollars			
199	RECORD PRESERVATION FEE	\$5.00	Payment Date	2/11/2015	File Date	2/10/2015
298	SERVICE COPIES	\$4.75				
350	CONST PERSONAL SERVICE	\$75.00	Customer Signature			
378	CONST CERTIFIED MAIL	\$15.00	Assessed By	TEZENO CHARLIE		
450	JUDICIAL FILING FEE CIVIL	\$50.00	Validated	2/11/2015	By	SYSTEM GENERATED Texas gov 103
452	LEGAL SRVCS FEE CIVIL/DIST	\$10.00				
453	SUPPORT OF JUDICIARY FEE	\$42.00				
475	LAW LIBRARY	\$15.00				
525	STENO FEE	\$15.00				
601	DISPUTE RESOLUTION FEE	\$10.00				
775	APPELLANT JUDICIAL FUND	\$5.00				

Comment Envelope number 4097713 0

FILED
Chris Daniel
District Clerk
FEB 27 2015
Harris County, Texas
8:10 AM
Deputy

3/16/2015 9:23:41 AM
Chris Daniel - District Clerk Harris County
Envelope No. 4504329
By: Charleta Johnson
Filed: 3/16/2015 9:23:41 AM

CAUSE NO. 2015-07627

BARBARA SHERRINGTON,

Plaintiff,

v.

ALLSTATE VEHICLE AND PROPERTY
INSURANCE COMPANY,

Defendant.

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

215th JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant Allstate Vehicle and Property Insurance Company and files this Original Answer to Plaintiff's Original Petition, and would respectfully show unto the Court the following:

I.
ORIGINAL ANSWER

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every, all and singular, the allegations contained within Plaintiff's Original Petition, and demands strict proof thereon by a preponderance of the credible evidence in accordance with the Constitution and laws of the State of Texas.

II.
JURY DEMAND

Defendant hereby makes a demand for a trial by jury and tenders the appropriate fee.

III.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Allstate Vehicle and Property Insurance Company prays that upon final trial and hearing hereof, Plaintiff recovers nothing from

Defendant, but Defendant go hence without delay and recovers costs of court and other such further relief, both general and special, to which Defendant may be justly entitled.

Respectfully submitted,

/s/ Roger D. Higgins

Roger D. Higgins
State Bar No. 09601500
Mark J. Jung
State Bar No. 24012934
THOMPSON, COE, COUSINS & IRONS, L.L.P.
700 N. Pearl Street, 25th Floor
Dallas, Texas 75201
Telephone: (214) 871-8200
Telecopy: (214) 871-8209
Email: rhiggins@thompsoncoe.com
mjung@thompsoncoe.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by electronic notice and/or facsimile to the following counsel on March 16, 2015:

Richard D. Daly
John Scott Black
Ana M. Ene
Matthew Worrall
DALY & BLACK, P.C.
2211 Norfolk St., Suite 800
Houston, Texas 77098
Facsimile: (713) 655-1587

/s/ Roger D. Higgins

Roger D. Higgins

Document Class

PROPERTY

Document Type

ATTORNEY CORRESPONDENCE

Claim Number

0328361134

Dollar Amount

0.00

Participant ID

B9FFA68D7C826F04

Sent Date

2015-02-16T16:26:09.000-0600

Received Date

2015-02-16T15:09:40.000-0600

Control Number

00099435400040704703094080000290CA4

Box Number

XD6531

Batch Number

081259;00015

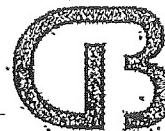


DALY BLACK PC Fax: (713) 655-1587

To:

Fax: +1 (847) 402-0508

Page 1 of 3 02/10/2015 2:00 PM



DALY & BLACK, P.C.

February 10, 2015

Allstate Vehicle and Property Insurance Company
 Claims Department
 3075 Sanders Road, Suite H1a
 Northbrook, IL 60062-7127

Via Facsimile (847) 402-0508

RECEIVED

FEB 13 2015

HOME OFFICE CLAIMS

RE: Insured: Barbara Sherrington
 Your Claim No.: 0328361134
 Policy No.: 936565021

Dear Allstate:

This letter will serve as 60 days' notice pursuant to TEX. INS. CODE § 541.154 of Plaintiff's intent to file a claim against you under Chapter 541, Subchapter D of the Texas Insurance Code. This is only a notice under TEX. INS. CODE § 541.154, and is not a demand of any kind.

Specific complaint: Ms. Sherrington made a claim under her insurance policy for damages to her home caused by a storm.

Ms. Sherrington's home sustained extensive damages during the storm, including water intrusion which is likely to continue in the future as a result of your failure to adequately pay her claim so that she can fix her damaged home.

You sent an adjuster to adjust the claim who was either improperly trained, or intentionally ignored the damages that were present. Moreover the adjuster failed to spend the appropriate amount of time necessary to properly identify the damages at issue. Accordingly, Ms. Sherrington has not been able to make necessary repairs to restore her home.

You are liable to Ms. Sherrington for the following violations of the Texas Insurance Code:

- 1) Misrepresenting and/or failing to discuss with Ms. Sherrington pertinent facts or policy provisions relating to coverage as an issue, in violation of TEX. INS. CODE § 541.060(a)(1);

- 2) Failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which your liability has become reasonably clear, in violation of TEX. INS. CODE § 541.060(a)(2);
- 3) Failing to promptly provide to Ms. Sherrington a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for your denial of the claim or offer of a compromise settlement of a claim in violation of TEX. INS. CODE § 541.060(a)(3);
- 4) Refusing to pay the claim without conducting a reasonable investigation with respect to the claim in violation of TEX. INS. CODE § 541.060(a)(7);
- 5) Misrepresenting the insurance policy by:
 - a) making an untrue statement of fact in violation of TEX. INS. CODE § 541.061(1);
 - b) failing to state a material fact necessary to make other statements made not misleading, considering the circumstances under which the statements were made in violation of TEX. INS. CODE § 541.061(2);
 - c) making a statement in a manner that would mislead a reasonably prudent person to a false conclusion of a material fact in violation of TEX. INS. CODE § 541.061(3); and
 - d) making a material misstatement of law in violation of TEX. INS. CODE § 541.061(4)

Amount of actual damages and expenses, including attorney's fees:

- 1) \$ 35,885.49 in actual damages (less any amounts you paid, if any, and any applicable deductible);
- 2) \$3,900.00 (approximately) in expenses; and
- 3) \$30,000.00 for attorney's fees to date

TOTAL: \$69,785.49 to date (less any amounts paid and any applicable deductible), plus interest. Please note that the attorney's fees will increase as attorneys spend time on this file, including time spent over the next 60 days.

From: DALY BLACK PC

Fax: (713) 655-1587

To:

Fax: +1 (847) 402-0508

Page 3 of 3 02/10/2015 2:00 PM

Ms. Sherrington does not wish to litigate this matter, and would simply like to receive compensation for her damages and move on. However, if a satisfactory resolution is not reached in 60 days, Ms. Sherrington intends to file a bad faith and deceptive trade practices claim under Section 541 of the Insurance Code.

To the extent that written notice of the claim is required either under the policy, or by law, in order to be entitled to any benefit whatsoever, this letter is intended to provide such notice to the extent it has not already been adequately given.

To our knowledge, you have not asked our client to provide a proof of loss or sworn statement, or any other such documentation. If you require that or contend there is any other condition precedent, please let us know immediately, and coordinate the effort through our offices, or we will consider the failure to do so a waiver.

If you have any questions or comments, please feel free to give me a call.

Sincerely,

/s/ Richard D. Daly

Richard D. Daly

From: (847) 402-9554
Karen Anna
Allstate
2775 Sanders Rd. B1S

Northbrook, IL 60062

SHIP TO: (972) 915-7928 BILL SENDER

IMAGING UNIT
ALLSTATE INSURANCE
8711 N FREEPORT PKWY MAIL ST 21

IRVING, TX 75063



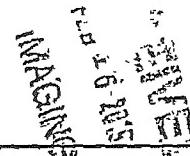
J151015011403uv

Case 4:15-cv-00751 Document 1-2 Filed in TXSD on 03/23/15 Page 22 of 30

Delivery Address Bar Code



Ref #
Invoice #
PO #
Dept #

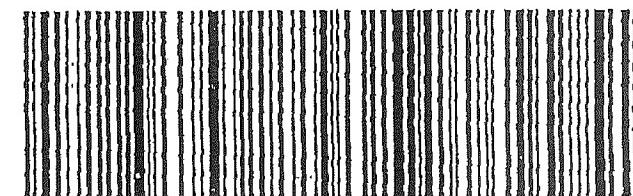


MON - 16 FEB 10:30A
PRIORITY OVERNIGHT

TRK# 7729 0864 5727
0201

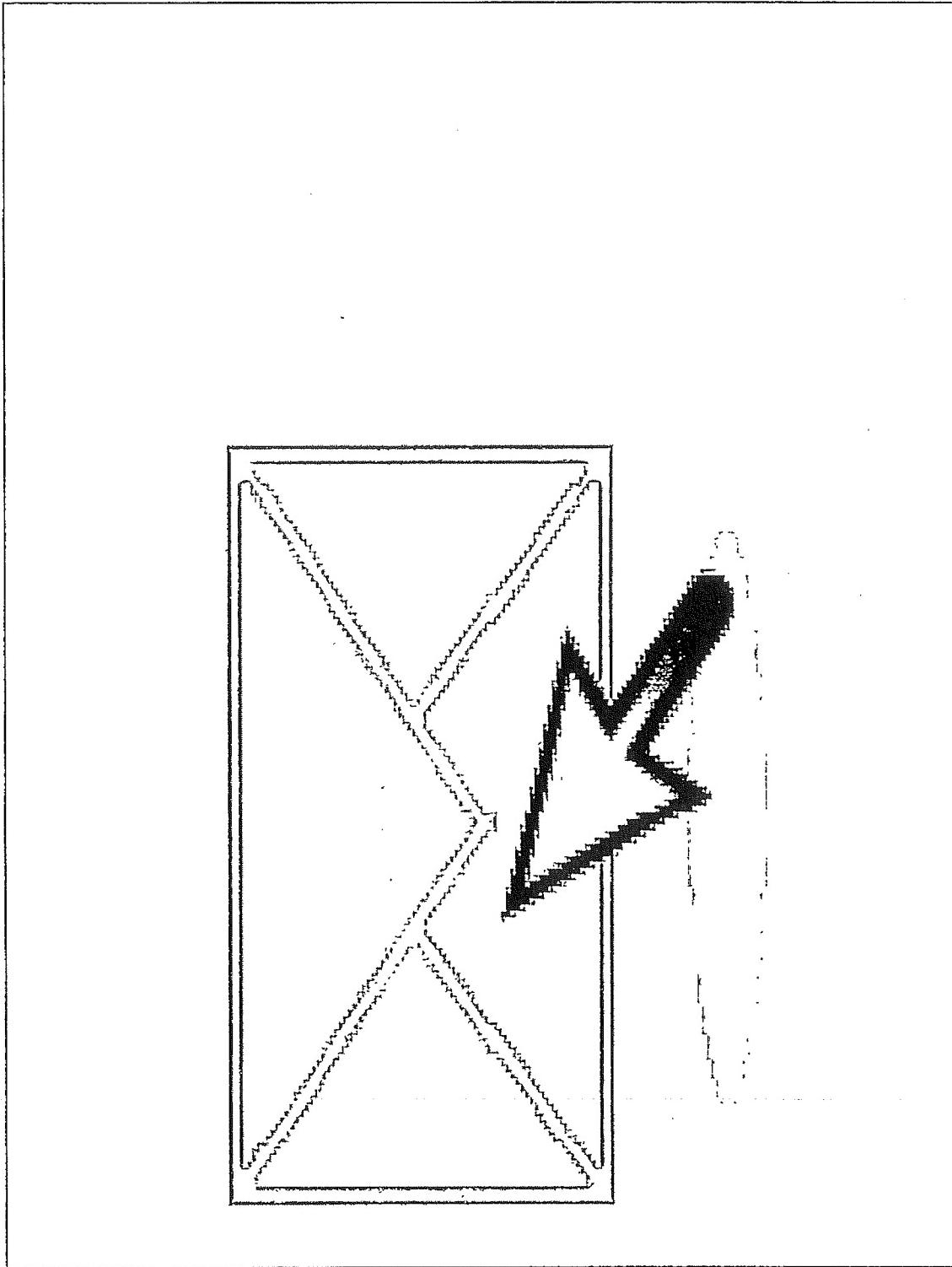
75063
TX-US
DFW

SE DALA



537JIA1B3/E64B

express



House & Home Policy Declarations

Your policy effective date is July 17, 2013



Page 1 of 4

Total Premium for the Policy Period

Premium for property insured	\$1,668.58
Rural Volunteer Fire Department Assistance Program Surcharge	0.63
Total	\$1,669.21

Discounts (included in your total premium)

Protective Device	\$6.36	Responsible Payment	\$93.03
Multiple Policy	\$188.05	Smoke-Free	\$33.01
Claim Free	\$99.47	Welcome	\$79.98
Allstate® Easy Pay Plan	\$34.06		

Total discounts	\$533.96
------------------------	-----------------

Insured property details

Please review and verify the information regarding your insured property. Please refer to the Estimated Home Replacement Cost Important Notice (X73182) for additional coverage information. Contact us if you have any changes.

Location of property insured: 14418 Markhurst Dr, Cypress, TX 77429-5365

Dwelling Style:

Built in 1997; 1 family; 2142 sq. ft.; 1 story

Foundation:

100% Slab

Attached structure:

One 2 car - attached garage

Interior details:

One semi-custom kitchen

One 0 clearance fireplace

Two custom full baths

Exterior wall type:

100% brick veneer

Interior wall partition:

100% drywall

Heating and cooling:

Average cost heat & central air conditioning, 100%

Additional details:

Interior wall height - less than 10 ft,
100%

Fire protection details:

Fire department subscription - no 2 miles to fire department

Information as of July 22, 2013

Summary

Named Insured(s)

Barbara Sherrington

Mailing address

**14418 Markhurst Dr
Cypress TX 77429-5365**

Policy number

829 125 485

Your policy provided by

**Allstate Vehicle and Property
Insurance Company**

Policy period

Beginning **July 17, 2013** through **July 17, 2014** at 12:01 a.m. standard time

Your Allstate agency is

Jill Belvin

12370 Jones Rd

Houston TX 77070

(281) 955-8909

Some or all of the information on your Policy Declarations is used in the rating of your policy or it could affect your eligibility for certain coverages. Please notify us immediately if you believe that any information on your Policy Declarations is incorrect. We will make corrections once you have notified us, and any resulting rate adjustments, will be made only for the current policy period or for future policy periods. Please also notify us immediately if you believe any coverages are not listed or are inaccurately listed.

TX070NBD

(continued)



House & Home Policy Declarations
 Policy number: **829 125 485**
 Policy effective date: July 17, 2013
 Your Allstate agency is Jill Belvin
 (281) 955-8909

Page 2 of 4

Insured property details (continued)**Roof surface material type:**

Composition

- 100% asphalt / fiberglass shingle

Roof details:

Predominant roof type: composition Roof geometry - hip

Age of roof - 16 years

Reminder about your Roof Surface Coverage:

Your policy provides coverage for your roof surface as described in the Roof Surfaces Endorsement, which states that we will pay for covered windstorm and/or hail damage to your roof surface according to the Roof Surfaces Payment Schedule included on the endorsement.

Because your composition roof is 16 years old, the percent of roof surface replacement cost currently covered for windstorm or hail damage is: 52%.

Mortgagee - None**Additional Interested Party - None****Coverage detail** for the property insured

Coverage	Limits of Liability	Applicable Deductible(s)
Dwelling Protection	\$237,262	<ul style="list-style-type: none"> ▪ \$4,745 Windstorm and Hail ▪ \$4,745 Tropical Cyclone ▪ \$4,745 All other perils
Other Structures Protection	\$47,453	<ul style="list-style-type: none"> ▪ \$4,745 Windstorm and Hail ▪ \$4,745 Tropical Cyclone ▪ \$4,745 All other perils
Personal Property Protection	\$154,221	<ul style="list-style-type: none"> ▪ \$4,745 Windstorm and Hail ▪ \$4,745 Tropical Cyclone ▪ \$4,745 All other perils
Additional Living Expense	Up to 12 months not to exceed \$94,905	
Family Liability Protection	\$300,000 each occurrence	
Guest Medical Protection	\$1,000 each person	
Foundation Water Damage	\$5,000	
Roof Surfaces Extended Coverage	Not purchased*	

* This coverage can provide you with valuable protection. Talk to your agent about the availability of this coverage and whether it meets your needs.

(continued)

TX070NBD

064 070 070
 130722N 01375
 2100020N 01375064TX000130722233906001375003032003905

House & Home Policy Declarations

Policy number: **829 125 485**
 Policy effective date: July 17, 2013
 Your Allstate agency is Jill Belvin
 (281) 955-8909



Page 3 of 4

Coverage	Limits of Liability	Applicable Deductible(s)
Water Back-Up	\$5,000	• \$500 Water Back-Up
Building Codes	Not purchased*	
Building Structure Reimbursement	Not purchased*	
Extended Limits		
Building Materials Theft	Not purchased*	
Country Endorsement	Not purchased*	
Dwelling in the Course of Construction	Not purchased*	
Electronic Data Recovery	Not purchased*	
Extended Coverage on Jewelry, Watches and Furs	Not purchased*	
Extended Coverage on Cameras	Not purchased*	
Extended Coverage on Musical Instruments	Not purchased*	
Extended Coverage on Sports Equipment	Not purchased*	
Extended Premises	Not purchased*	
Fair Rental Income	Not purchased*	
Fire Department Charges	Not purchased*	
Golf Cart	Not purchased*	
Green Improvement	Not purchased*	
Home Day Care	Not purchased*	
Identity Theft Expense	Not purchased*	
Increased Coverage on Business Property	Not purchased*	
Increased Coverage on Theft of Silverware	Not purchased*	
Loss Assessments	Not purchased*	
Residence Glass	Included	
Secondary Residence	Not purchased*	
Yard and Garden	Not purchased*	

* This coverage can provide you with valuable protection. Talk to your agent about the availability of this coverage and whether it meets your needs.

Scheduled Personal Property Coverage

Your policy does not include Scheduled Personal Property Coverage. This coverage can provide you with valuable protection. Talk to your agent about availability of this coverage and whether it meets your needs.

TX070NBD



House & Home Policy Declarations
 Policy number: **829 125 485**
 Policy effective date: July 17, 2013
 Your Allstate agency is Jill Belvin
 (281) 955-8909

Page 4 of 4

Your policy documents

Your House & Home policy consists of the Policy Declarations, any Policy Declarations Addendum, and the following documents. Please keep them together.

- AVPIC House & Home Policy - AVP91
- Tropical Cyclone Deductible Endorsement - APC548
- Water Back-Up Endorsement - AVP98
- Residence Glass Coverage - AVP99
- Windstorm and Hail Deductible Endorsement - AVP82
- Roof Surfaces Endorsement - AVP145

Important payment and coverage information

Here is some additional, helpful information related to your coverage and paying your bill:

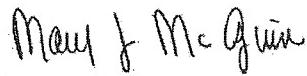
►The Property Insurance Adjustment condition applies.

►Please note: This is not a request for payment. Any adjustments to your premium will be reflected on your next scheduled bill which will be mailed separately.

Allstate Vehicle and Property Insurance Company's Secretary and President have signed this policy with legal authority at Northbrook, Illinois.



Steven P. Sorenson
President



Mary J. McGinn
Secretary

TX070NBD

064 070 070
130722N 01375
2100020N 013750647TX000130722233906001375004032003906



Page 1 of 28

ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY

House & Home Policy

TEXAS

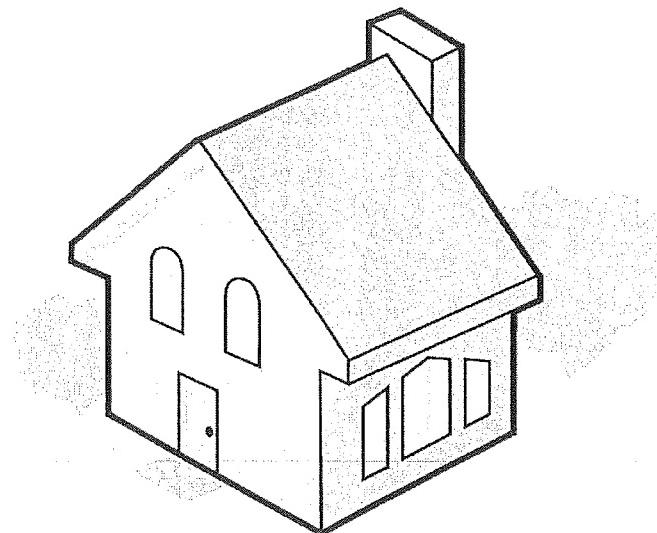
AVP91

Policy number
829 125 485

Policy effective
July 17, 2013

Policyholders
**Barbara Sherrington
14418 Markhurst Dr
Cypress TX 77429-5365**

Your Allstate agency is
**Jill Belvin
12370 Jones Rd
Houston TX 77070**



**Allstate Vehicle and Property Insurance Company
The Company Named in the Policy Declarations
A Stock Company---Home Office: Northbrook, Illinois 60062**



(2)

Elaine H Palmer
215TH DISTRICT COURT OF TEXAS
CIVIL COURTS BUILDING
HOUSTON TEXAS 77002
(713) 368 6330

03/20/2015

====

TO ALL COUNSEL OF RECORD

THE COURT HAS SET A CASE MANAGEMENT CONFERENCE FOR 8 30 A M ON MON MAY 04,2015 REGARDING YOUR CAPTIONED CASE PLEASE BE PREPARED TO PREPARE AND SUBMIT AN AGREED DOCKET CONTROL ORDER LISTING YOUR AGREED TRIAL DATE & OTHER DATES RELATING TO YOUR CASE PER JUDGE PALMER's REQUIREMENT

**AN AGREED SCHEDULING ORDER MAY BE FILED IN LIEU OF APPEARING AT THE CASE MANAGEMENT CONFERENCE IF AGREED DOCKET CONTROL ORDER IS E-FILED, ATTORNEYS DO NOT NEED TO APPEAR OR CALL to CONFIRM COUNSEL MAY EMAIL COORDINATOR TO INFORM THAT THE AGREED DCO HAS BEEN E-FILED IF YOU DO NOT APPEAR AND A SCHEDULING ORDER IS NOT E-FILED THE COURT WILL SIGN AN ORDER OF DISMISSAL FOR YOUR MATTER

IF YOU HAVE ANY QUESTIONS, YOU MAY CONTACT TRICIA ELLIS-GRIGGS at 713-368-6340

ELAINE H PALMER
Judge, 215TH DISTRICT COURT

CASE - 201507627 FILED - 20150210 COURT - 215th
TYPE - INSURANCE
SHERRINGTON, BARBARA VS ALLSTATE VEHICLE AND

RICHARD D DALY
2211 NORFOLK ST SUITE 800
HOUSTON TX 77098

00796429

JCVG01
Rev 12042014

Elaine H Palmer
215TH DISTRICT COURT OF TEXAS
CIVIL COURTS BUILDING
HOUSTON TEXAS 77002
(713) 368-6330

03/20/2015



TO ALL COUNSEL OF RECORD

THE COURT HAS SET A CASE MANAGEMENT CONFERENCE FOR 8:30 A.M. ON
MON MAY 04, 2015 REGARDING YOUR CAPTIONED CASE. PLEASE BE
PREPARED TO PREPARE AND SUBMIT AN AGREED DOCKET CONTROL ORDER LISTING
YOUR AGREED TRIAL DATE & OTHER DATES RELATING TO YOUR CASE PER
JUDGE PALMER's REQUIREMENT

**AN AGREED SCHEDULING ORDER MAY BE FILED IN LIEU OF APPEARING AT
THE CASE MANAGEMENT CONFERENCE IF AGREED DOCKET CONTROL ORDER
IS E-FILED, ATTORNEYS DO NOT NEED TO APPEAR OR CALL to CONFIRM COUNSEL
MAY EMAIL COORDINATOR TO INFORM THAT THE AGREED DCO HAS BEEN E-FILED
IF YOU DO NOT APPEAR AND A SCHEDULING ORDER IS NOT E-FILED THE COURT
WILL SIGN AN ORDER OF DISMISSAL FOR YOUR MATTER

IF YOU HAVE ANY QUESTIONS, YOU MAY CONTACT TRICIA ELLIS-GRIGGS at
713-368-6340

ELAINE H PALMER
Judge, 215TH DISTRICT COURT

CASE - 201507627 FILED - 20150210 COURT - 215th
TYPE - INSURANCE
SHERRINGTON, BARBARA VS ALLSTATE VEHICLE AND

ROGER D. HIGGINS
700 N PEARL ST 25FL
DALLAS, TX 752012832

9601500